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HUMAN RIGHTS COMMITTEE

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT

Third periodic reports of States parties due in 1991

Addendum

NORWAY*

[28 January 1992]

INFORMATION IN RELATION TO EACH OF THE ARTICLES OF PARTS I, II AND III OF THE COVENANT

Article 1

1. The first sentence of article 1 of the Norwegian Constitution reads: "The Kingdom of Norway is a free, independent, indivisible and inalienable realm."

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* For the initial report submitted by the Government of Norway, see document CCPR/C/1/Add.5 and for its consideration see CCPR/C/SR.77-SR.79, or Official Records of the General Assembly, Thirty-third session, Supplement No. 40 (A/33/40), paragraphs 227-257. For additional information submitted subsequent to the initial report, see document CCPR/C/1/Add.52 and for its consideration by the Committee see CCPR/C/SR.301 and SR.302 or Official Records of the General Assembly, Thirty-sixth session, Supplement No. 40 (A/36/40), paragraphs 337-379. For the second periodic report of Norway, see document CCPR/C/42/Add.5 and for its consideration by the Committee see CCPR/C/SR.844-SR.847, or Official Records of the General Assembly, Forty-fourth session, Supplement No. 40 (A/44/40), paragraphs 51-95.

GE.92-15468/4369B

2. The Norwegian Government recognizes the right of all peoples to self-determination. In order to prevent public and private support for the apartheid regime in South Africa, the Storting passed Act No. 15 of 20 March 1987 relating to an Economic Boycott of South Africa and Namibia to Combat Apartheid. The sanctions relating to Namibia were repealed by an amendment to the Act in March 1990.

3. Norway has no colonies, and is not responsible for the administration of any non-self-governing or trust territories.

Article 2

Information on the rights and freedoms recognized in the Covenant

4. All documents issued by the United Nations, including those issued in connection with the activities of the Human Rights Committee, are available to the public and members of the legal profession at the library of the Nobel Institute, which is the depositary library for the United Nations in Norway. Unfortunately, few people seem to be aware of this.

5. In 1991, international human rights became a mandatory subject for law students at the University of Oslo. The course covers the development of human rights from idea to binding legal norms, the international system of implementation, and future development of international human rights. However, the main emphasis is on a presentation of the substantive rights and freedoms recognized in international human rights instruments, of which the Covenant is one of the most important.

6. Police training does not include separate courses on the rights and freedoms recognized in the Covenant. However, information on such rights and freedoms forms an integral part of the teaching of subjects such as criminal procedure and psychology. More instruction on the obligations arising from human rights conventions is expected to be provided after a forthcoming restructuring of police training.

7. A compilation of international human rights instruments containing a translation of the Covenant has been distributed to all Norwegian courts. All courts also have a comprehensive Danish work on human rights (Lars Adam Rehof & Tyge Trier, Menneskeret, Jurist- og Økonomiforbundets Forlag, København, 1990). The book includes a long section on the rights and freedoms recognized by the Covenant, and refers to the relevant general comments and opinions expressed by the Human Rights Committee.

8. The European Convention for the Protection of Human Rights and Fundamental Freedoms of 4 November 1950 with its Protocols (hereinafter referred to as "the European Convention on Human Rights") to a large extent recognizes the same rights and freedoms as the Covenant. Decisions by the European Court of Human Rights which affect the practice of the courts have induced the Ministry of Justice to distribute three circulars to all courts. The circulars contained decisions and comments on the obligations arising from the relevant human rights instrument. The Ministry of Justice will continue

to produce such circulars in instances where decisions or opinions of Convention organs call for a revision of the practice followed by the courts or administrative authorities.

9. The Ministry of Justice also distributes the reports of the European Commission of Human Rights and the judgements of the European Court of Human Rights to the relevant administrative authorities.

10. Since 1986, delegations of Norwegian judges have visited Strasbourg annually in order to study the activities of the European Commission and Court of Human Rights. So far, approximately one quarter of Norwegian judges have participated in such study tours. This presumably enhances their awareness of the rights and freedoms recognized in the European Convention on Human Rights (and thus in the Covenant).

Discrimination

11. Information on measures adopted to prevent discrimination based on race, colour, sex or other status is given below under article 3 and article 26. As regards the position of foreign nationals, the following may be noted.

12. Act No. 64 of 24 June 1988 concerning the Entry of Foreign Nationals into the Kingdom of Norway and Their Presence in the Realm (hereinafter referred to as "the Immigration Act"), entered into force on 1 January 1991. A translation of the Act is enclosed (appendix 1). Section 3 of the Act reads:

> "§ 3 The juridical status of foreign nationals.
>
> Unless otherwise provided by legislation currently in force, foreign nationals have during their stay in Norway the same rights and obligations as Norwegian nationals."

13. Thus, in principle, foreign nationals and Norwegians have equal legal status. Exceptions must be provided by law. Such legislation might be necessary, partly to make application of foreign law possible in certain instances, and partly to provide for non-equal treatment of nationals and foreign nationals when differentiation is justifiable (cf. Proposition No. 46 (1986-87) to the Odelsting, p. 198).

Investigation of alleged criminal offences committed by members of the police

14. Reference is made to Norway's second periodic report, paragraphs 9-11, regarding special investigative bodies in cases against police officers and officers of the prosecuting authority, for offences committed in the course of their duties. Section 67, subsection 5, of Act No. 25 of 22 May 1981 relating to Criminal Procedure (hereinafter referred to as the "Criminal Procedure Act", a translation of which is enclosed as appendix 2), entered into force on 18 December 1987. A new chapter 34 regarding the same has been inserted into the Royal Decree of 28 June 1985 relating to the Organization of the Public Prosecuting Authority. In accordance with these provisions, special investigative bodies which are independent of the police and the prosecuting authority have now been established in each of the public prosecutor districts. During the period 1988-1990 a total of 1,336 cases were reported

to these bodies. In 103 of the cases, the investigative bodies found reason to believe that a criminal offence had taken place. Twenty of these cases relate to the use of force by the police.

Legal aid

15. The following may be added to the information on the system of free legal aid provided in Norway's second periodic report.

16. The net income limit which generally determines whether a person is eligible for free legal aid has been raised from Nkr 70,000 to Nkr 80,000 for single parents with one dependant (cf. Norway's second periodic report, para. 14). A person entitled to free legal aid shall not contribute to the lawyer's fee unless his or her net income exceeds Nkr 50,000 (an individual without dependants) Nkr 60,000 (an individual with one dependant) or Nkr 70,000 (an individual with more than one dependant, and single parents) (cf. Norway's second periodic report, para. 15).

17. When special reasons so indicate, legal aid may be granted even if these limits on income or capital have been exceeded. (See section 10 of Act No. 35 of 13 June 1980 relating to Free Legal Aid (hereinafter referred to as the "Free Legal Aid Act", a copy of which is enclosed as appendix 3)).

18. In certain cases, free legal counsel shall be granted without a means test. These include:

(a) Cases relating to exemption from military service (section 19, item 1);

(b) Cases concerning the lawfulness of compulsory administrative intervention (section 19, item 2 and section 22, item 3);

(c) Cases in which legal proceedings have been recommended by the Storting's Ombudsman for Public Administration (section 19, item 3);

(d) Cases in which a petition has been filed to declare an individual incapable of managing his own affairs (section 20).

19. Foreign nationals are entitled to free legal advice without a means test in cases concerning rejection, expulsion or revocation of any permit granted and when applying for asylum. (Cf. the Free Legal Aid Act, section 13, para. 1. This section was amended when the Immigration Act was adopted.) In cases relating to imprisonment of, and certain other measures imposed upon, foreign nationals according to the Immigration Act, section 42, first paragraph (cf. information supplied under article 9), the foreign national is entitled to free legal counsel (the Free Legal Aid Act, section 19, item 4). Recourse is, however, possible if the foreign national has means (the Immigration Act, section 42, para. 4).

20. The right of an aggrieved party to a lawyer according to chapter 9 (a) of the Criminal Procedure Act (cf. Norway's second periodic report, para. 17) is granted not only to victims of rape but also to other persons who are victims of serious sexual abuse, including incest and other sexual abuse of children

below the age of 16. According to regulations adopted by the Ministry of Justice pursuant to section 6 of the Free Legal Aid Act, women who have been physically abused by their husbands or cohabitants have the same right (circular G-62/87).

21. According to regulations adopted by the Ministry of Justice pursuant to section 6, subsection 2, of the Free Legal Aid Act, victims of violence are entitled to free legal aid without a means test in cases concerning compensation from the offender (circular G-38/89, issued on 23 February 1989). The regulations entered into force on 1 March 1989.

The impact of the Covenant on judicial activities

22. During the consideration of Norway's second periodic report, one member of the Human Rights Committee said that it would be helpful if greater attention were paid in future reports to cases in which the Supreme Court had made reference to the Covenant and other human rights instruments (CCPR/C/SR.844, para. 29). In the context of article 2, only an overview of such cases will be provided. More details will be supplied under the relevant article of the Covenant.

23. From 1988 to 1990, seven decisions by the Supreme Court, five of which were made in 1990, were registered as dealing with human rights instruments. This indicates that human rights instruments are playing an increasingly important role in Norwegian law. The European Convention on Human Rights is the instrument which is most often referred to. In only one case was reference also made to the Covenant. (The case is printed in the Norwegian Law Gazette, Norsk retstidende 1990, p. 319 et seq.). Four of the cases dealt with the minimum guarantees provided for defendants in criminal cases (cf. art. 14, para. 3, of the Covenant) (Norwegian Law Gazette 1988, p. 314 et seq. 1990, p. 312 et seq., p. 319 et seq. and p. 1221 et seq.). Two of the cases dealt with the right of persons deprived of their liberty to institute proceedings before a court (cf. art. 9, para. 4) of the Covenant (Norwegian Law Gazette 1989, p. 1372 et seq. and 1990, p. 599 et seq.). One dealt with freedom of expression (cf. art. 19 of the Covenant) (Norwegian Law Gazette 1990, p. 257). The Supreme Court did not find that rights or freedoms recognized in international conventions on human rights had been violated in any of the cases in which this was the issue.

Article 3

24. In Norway's second periodic report, paragraphs 19 to 22, mention was made of Act No. 45 of 9 June 1978 relating to Equal Status between the Sexes (hereinafter referred to as "the Equal Status Act"). Particular attention was paid to section 21 of the Act. In the light of the Human Rights Committee's general comment 4 (13), the following may be added to the information contained in Norway's second periodic report with respect to the duty to ensure the equal right of men and women to enjoy the rights set forth in the Covenant. More detailed information is contained in Norway's third report submitted to the Committee on the Elimination of Discrimination against Women (CEDAW/C/NOR/3).

25. Equal status between men and women is an important feature of official policy in Norway. The Government's Second Programme of Action to Promote Equal Status came to an end in 1990, and work is currently in progress on a report to the Storting which will set out guidelines for Norway's equal status policy in the 1990s.

26. Formally speaking, men and women in Norway today enjoy equal status in all areas of society. They have the same civil and political rights, and the same right to education and to an occupation. During the last 15 to 20 years, women have increased their level of participation in many areas. They are more and more active in politics, and they are obtaining more qualifications as demonstrated by the statistics provided below. Even though women to a large extent choose traditional women's occupations, an increasing number of women are crossing the border into men's occupations, as well as into leading positions.

Legislation

27. The main legal framework for Norwegian policy on equal status is provided by the Equal Status Act. When it was introduced, the Equal Status Act had a twofold aim. Firstly, it was designed to ensure equality of treatment in all areas where this might be possible. Secondly, it was intended to influence attitudes with respect to sex roles, and to commit the authorities to active promotion of equal status by means of instruments which were not encompassed in the Act. Section 1 of the Act reads:

> "This Act shall promote equal status between the sexes and aims particularly at improving the position of women. The public authorities shall facilitate equality of status between the sexes in all sectors of society. Women and men shall be given equal opportunities for education, employment and cultural and professional advancement."

28. The Act contains a general clause which is based on the principle that all discrimination between men and women, including certain forms of de facto discrimination, is prohibited (section 3). However, differential treatment which, in accordance with the purpose of the Act, promotes equal status between the sexes, is not precluded by this (section 3, last para.).

29. Discriminative legislative provisions have gradually been abolished by the Storting. In May 1990, even the Constitution was amended. The right of succession to the Norwegian throne, which has been through the male line only, has now been brought into line with the principle of equal status between the sexes (cf. article 6 of the Constitution, a translation of which is enclosed as appendix 4). Efforts are also being made to use gender-neutral expressions in new legislation.

30. Other legislative amendments aimed at, or having the result of, bringing about a more equal de facto position of men and women will be dealt with under article 7 and article 23.

Bodies established to ensure the equal rights of men and women

31. The Equal Status Act is enforced by the Equal Status Ombud (Commissioner) and the Equal Status Appeals Board (Equal Status Act, sections 10-19). If a provision of the Act is violated, the Ombud shall try to effectuate a voluntary agreement. If this proves to be impossible, the case may be brought before the Equal Status Appeals Board, which is empowered to lay down prohibitions and injunctions. The existence of these bodies does not prevent individuals from appealing directly to the courts.

32. The Equal Status Council was established in 1972. The Council operates as an independent consultative body for the Government and as a contact and cooperative body between the Government, women's organizations and the public in matters concerning equal rights.

33. The Ministry of Children and Family Affairs has a Department of Living Conditions and Equal Status. The task of the Department is to coordinate government policies in matters concerning equal status, and ensure that this aspect is not neglected.

34. In January 1990, 355 of the 439 municipalities in Norway (79 per cent) had established Municipal Equal Status Committees, appointed on a political basis with the same rights and status as other committees in the municipality. The Equal Status Council serves as an advisory body for the equal status committees.

Women's status in practice

35. The proportion of women representatives in political bodies in Norway increased radically in the 1970s and 1980s. As a result, about one third of the members of the Storting, municipal councils and official committees are women, and more than 40 per cent of county council representatives are women. The Prime Minister is a woman, and the current Labour Party Government has 9 women ministers of a total of 19. (Nine of the 24 State secretaries are women). In elections, women make use of their right to vote to approximately the same degree as men. Women constitute roughly 40 per cent of the total membership of political parties.

36. Slightly more than one half of the students enrolled in secondary and higher education are female. (In 1989 the percentage of female students was 51 in secondary school, and 54 in higher education). Among law students and medical students, the numbers of men and women are approximately equal. However in other subjects the numbers of men and women are still influenced by traditional sex roles, or different preferences between the sexes. Thus, more than two thirds of language and psychology students are women, whereas only one fourth of civil engineering students are women.

37. Seventy per cent of women between the ages of 25 and 66 had paid work in 1990. The corresponding figure for men was 83.3 per cent. Of employed women, 48 per cent worked part-time. The corresponding figure for men is 9 per cent. Women are to a large extent employed in different areas and occupations and, in general, still in lower positions than men.

Article 4

38. There have been no legislative changes in respect of public emergencies and other provisions of article 4 during the time span covered by this report. In the light of the Human Rights Committee's General Comment 5 (13), the following may be added to the information supplied in previous reports.

39. The Norwegian Constitution contains no provisions regarding public emergencies. Act No. 7 of 15 November 1950 concerning Special Measures in Case of War, Threat of War and Similar Circumstances (a translation of which is enclosed as appendix 5) authorizes the King, inter alia, to pass legislation derogating from existing legislation (section 3). Furthermore, the Act authorizes the King to decide that certain provisions regarding criminal procedure contained in sections 8-13 of the Act shall apply instead of the corresponding provisions of the Criminal Procedure Act (section 7). These provisions provide somewhat poorer safeguards for the accused. Section 14 authorizes the King, under certain conditions, to make decisions which limit the opportunity to have a judgement reviewed by a higher tribunal. The Act does not, however, authorize the passing of legislation which is contrary to the fundamental rights set out in chapter E of the Constitution. Whether such legislation, which would also be contrary to the rights and freedoms recognized in the Covenant, may be passed in cases of emergency must be decided on the basis of unwritten principles of constitutional emergency law ("konstitusjonell nødrett"). When drawing up the scope of such principles, and the scope of the King's authority under the Act concerning Special Measures in Case of War, Threat of War and Similar Circumstances, the obligations emanating from international law must be taken into account, as well as the spirit of the Constitution. Against this background, one may safely conclude, as was done on page 3 of Norway's initial report, that Norwegian law is in compliance with article 4.

40. No state of emergency has been declared in Norway during the time span covered by this report.

Article 5

41. According to general principles of interpretation, the provisions of article 5, paragraphs 1 and 2, will be applied by Norwegian courts in cases in which the Covenant is invoked.

Article 6

Death penalty

42. Reference is made to Norway's second periodic report, paragraph 24. On 5 September 1991, Norway deposited the instrument of ratification of the Second Optional Protocol to the Covenant on Civil and Political Rights, aimed at the abolition of the death penalty. No amendment of internal legislation was necessary before its ratification.

Positive action taken to increase life expectancy

Infant mortality

43. The following statistics show the rate of infant mortality in Norway:

	1987	1988	1989
Infant mortality rate (deaths within first year of life per 1,000 live births):	8.4	8.3	7.9
Perinatal mortality rate (stillbirths and deaths in first week of life per 1,000 births):	7.9	7.8	7.6

44. The central authorities have taken steps to improve the care of expectant mothers and newborns in order to reduce perinatal and infant mortality. The following measures may be mentioned:

(a) Perinatal committees have been appointed in all counties. These committees scrutinize all cases of perinatal mortality in order to identify factors which may have led to the death of a foetus or newborn baby. The perinatal committees are currently being evaluated;

(b) Perinatal units of the maternity departments of hospitals are being upgraded into intensive care units;

(c) The period of maternity leave has been extended from 24 to 26 weeks, two weeks of which must be taken before the expected date of delivery;

(d) Financial incentives have been granted in order to encourage local authorities to include more midwives in antenatal care.

HIV and AIDS

45. As of 31 December 1990 there were 195 reported cases of AIDS in Norway. Of these, 129 (66 per cent) have resulted in death. There were 962 reported cases of HIV infection.

46. The Directorate of Health has drawn up an Action Plan to prevent the spread of the HIV Virus. The Action Plan sets out the framework and scope of activities in cooperation with voluntary organizations representing high-risk groups and patients. The protection of the rights and integrity of the individual is emphasized. The programme for HIV testing is voluntary and is universally available free of charge. Services are targeted specifically at high-risk groups in certain urban areas, and there are special programmes aimed at pregnant women and military recruits. All Norwegian donors of blood, organs, sperm, milk or other human biological material are subject to HIV antibody testing and will continue to be so. Approximately 800,000 people have been tested in this way (of a population of 4.2 million). Further, a preventive strategy, with the emphasis on public information and education, has been followed. In this respect special efforts have been made in relation to high-risk groups.

47. Both central and local educational campaigns have been carried out, mostly with public funding and with a growing emphasis on reaching the young. Most larger cities have a clean syringe and needle programme for intravenous drug users. Hospitals have been upgraded with respect to equipment and expertise in order to provide adequate and efficient care to HIV patients.

Traffic deaths

48. The following statistics show the number of traffic deaths in recent years:

1988:	378
1989:	381
1990:	332

49. Relatively fewer children died in traffic accidents in 1990, compared with previous years. This development is probably due to improvements in the protection of children. The use of approved safety equipment for children in cars is now mandatory. As regards bicycle accidents, information campaigns encouraging the use of helmets by cyclists seem to have had a positive effect, especially among children.

Deaths from narcotics

50. The following statistics show deaths caused directly by the use of narcotics in Oslo (similar statistics for other cities are not available):

1988:	30
1989:	24
1990:	43

51. Of the measures implemented in order to prevent drug abuse, particular mention should be made of information projects in schools, involving representatives from the police, health services and drug users, which seem to have had positive results.

Crime

52. The number of murders has risen in recent years. The figures below show the number of murders investigated.

1987:	39	(Cases solved: 87 per cent)
1988:	44	(Cases solved: 89 per cent)
1989:	62	(Cases solved: 92 per cent)

53. The Public Prosecutor has expressed concern over the increase in violence in Norway, in particular the rising number of murders, as the number of convictions for murder has nearly doubled during the last decade. The penalty for manslaughter is 6-15 years' imprisonment, while the actual sentences passed by the courts are in most cases 7-8 years' imprisonment. The Public Prosecutor has attempted to influence the courts to impose longer sentences by appeals to the Supreme Court, emphasizing the negative trend and the need for more severe sentences in such cases.

The use of firearms by the police

54. The use of firearms by the police is governed by regulations laid down by the Ministry of Justice on 1 August 1989. Firearms may only be used as a last resort in certain grave situations (section 19). Normally the police shall not carry firearms and, as a general rule, firearms may only be carried when so ordered by the chief of police (section 10).

55. In the period 1988-1990, four persons were killed by shots fired by the police. One person was injured. All of these cases were investigated by the special investigative bodies established pursuant to section 67 of the Criminal Procedure Act (cf. para. 14). These bodies have, however, not found reason to accuse any of the policemen in question of having committed a criminal offence in any of these cases.

Article 7

56. In July 1988 the Norwegian Government submitted its initial report to the Committee against Torture (CAT/C/S/Add.3). Reference is made to that report, as well as to page 7 in Norway's initial report, pages 2 to 5 of the supplementary report to Norway's initial report (CCPR/C/1/Add.52) and paragraphs 27 to 37 of Norway's second periodic report. Reference is also made to information submitted in the present report under article 10.

57. In paragraph 30 of the above-mentioned report to the Committee against Torture, mention was made of ongoing investigations of alleged large-scale police brutality in the city of Bergen. Investigations were carried out by a public prosecutor and a team of police investigators from Oslo. No evidence of any large-scale police brutality was found. In only 1 of the 368 cases of alleged abuse which were investigated was sufficient evidence found to charge a police officer with a criminal offence.

58. After these investigations 15 persons were charged with making false accusations against the police, 11 of whom have been convicted. The investigations of the alleged large-scale police violence in Bergen and the fact that the prosecuting authorities chose to bring the above-mentioned charges have given rise to considerable debate and criticism, particularly among members of the legal profession. Concern has also been expressed, for instance by Amnesty International in a letter to the Norwegian Government, that the charges of false accusations against the police may deter people who have complaints to make concerning police ill-treatment from expressing them. The Norwegian authorities have taken due note of Amnesty International's viewpoints in this matter.

59. In Norway's second periodic report, paragraphs 31 to 34, mention was made of proposed new provisions relating to public prosecution in cases of maltreatment of a present or former spouse or cohabitant. The provisions in question were enacted on 26 February 1988. A translation of section 228 of the Penal Code now reads:

> "Anyone who commits violence against another or otherwise offends him bodily, or is accessory thereto, is guilty of assault and shall be liable to fines or imprisonment for a term not exceeding six months.

If the assault has caused injury to body or health or considerable pain, up to three years' imprisonment may be imposed, but up to five years if death or serious injury results.

If an assault is retaliated with another assault or provoked by a previous assault or offence against honour, it may go unpunished.

Public prosecution shall not be initiated without request of the victim unless

(a) the felony has resulted in someone's death, or

(b) the felony is committed against a former or present spouse or cohabitant of the offender, or

(c) the felony is committed against a child of the offender, or a child of a spouse or cohabitant of the offender, or

(d) the felony is committed against a relative in directly ascending line, or

(e) prosecution is required by the public interest."

60. The problem of sexual abuse of children, in particular by fathers, stepfathers or other persons responsible for the care of the child, has received considerable attention in recent years. Such abuse seems to be much more frequent, and the detrimental effect on the victims much more serious, than was previously assumed. At present, the majority of the criminal cases dealt with by the High Courts (which are the courts of first instance in cases involving serious crimes) relate to sexual abuse of children. In 1988 and 1989, 166 persons were convicted of sexual abuse of children by the High Courts. The large number of cases is partly due to the fact that old cases of abuse have been made known to the police because of the increased focus on the problem in the mass media, etc.

61. Considerable efforts have been made to prevent sexual abuse of children and to help victims of such abuse. It is agreed that interdisciplinary cooperation between teachers, health personnel, social workers and police officers is necessary in order to achieve these goals. One of the measures to achieve this is a two-year national protection and treatment programme for sexually abused children, initiated by the Ministry of Health and Social Affairs. The programme consists of competence-building projects carried out at county level. The projects cover fields such as how to prevent sexual abuse of children, treatment of sexually abused children and their families, organization of multiprofessional collaboration and teaching different professionals about sexual abuse.

62. In 1987, the Ministry of Justice appointed a working group to study and give advice relating to investigation of incest cases. The report of the working group is published in the series Official Norwegian Reports (NOU) 1988:29. Another working group was appointed in 1989 to consider the need for reform of the Penal Code, and the provisions governing compensation for

victims. In its report (NOU 1990:13), the working group proposed amendments to the Penal Code aimed at increasing the actual penalty, as well as prolonging the period of criminal responsibility in cases of sexual abuse of children. Amendments to the provisions governing compensation to the victims from the offender were also proposed in order to increase the amount of compensation. The report has been submitted to relevant institutions and organizations in order to obtain their opinion on these proposals, and a bill was submitted to the Storting during autumn 1991.

63. In December 1988, a committee appointed by the Government in October 1980 presented a report containing a draft Prison Act, intended to replace the current Prison Act of 1958 (NOU 1988:37). In the draft, prisoners' rights are improved compared with their rights under the legislation presently in force. The draft envisages a differentiated model of serving sentences, in which serving in open institutions should be the general rule. In the course of serving the sentence, the prisoner should be transferred to less severe options, including serving in outside institutions. The draft also proposes a reduction of disciplinary measures. The proposals are currently being considered by the Ministry of Justice.

64. In 1989, the Prison Regulations of 12 December 1961, with subsequent amendments, were amended. The amendments related to the inmates' contact with the outside world through leaves, telephone calls, correspondence and visits. The amendments should facilitate a more differentiated treatment of the inmates. On the one hand, increased security in closed prisons was sought by adopting more restrictive measures: the number of ordinary leaves (permisjoner) for inmates in closed institutions was limited to six per year in normal cases. The number of visits was limited, and control of visitors intensified. The right to telephone from closed institutions was limited to 20 minutes each week for each inmate. Security measures in connection with guarded leaves (fremstilling) from closed prisons were strengthened, for instance by requiring that two prison officers accompany the inmate. The background for these amendments is the tendency towards a tougher climate in Norwegian prisons in recent years. An increasing number of the inmates are professional criminals with an international background.

65. The security ward of Ullersmo County Prison has been in use since May 1989. Only inmates who are considered a high risk as regards escape are to be committed to that ward. Such commitment may only be decided by the director of the prison, and only for a period not exceeding six months each time. Altogether, the total time spent in this ward shall not exceed two years. The inmates have less access to the company of other prisoners in this ward than in ordinary wards.

66. At the same time, the opportunity to serve in open institutions has increased. In 1988, 722 people served in open prisons, whereas in spring 1991 the number had increased to 831. Furthermore, contract wards have been opened in a number of prisons. In order to be transferred to such a ward, the inmate must sign a contract in which he among other things promises not to use any intoxicating substances and accepts routine urine sampling. The inmates of contract wards have advantages such as more leaves, more leisure activities and a better atmosphere in the ward. According to the central prison authorities, very favourable results have been obtained with contract wards.

67. In a recent complaint against Norway to the European Commission of Human Rights, it was alleged that the Norwegian authorities violated article 3 of the European Convention on Human Rights (Application No. 14610/89, Treholt versus Norway and Decision of the Commission on 9 July 1991). Article 3 reads: "No one shall be subjected to torture or to inhuman or degrading treatment or punishment". The applicant complained that his treatment in prison constituted a breach of article 3. The Commission, however, found the application manifestly ill-founded within the meaning of article 27, paragraph 2, of the Convention, and thus not admissible. An earlier complaint gave the same result (Application No. 11701/85 by E. versus Norway and Decision of the Commission on 7 March 1988).

68. Corporal punishment is unlawful both in educational and in medical institutions. This follows directly from the Penal Code section 228. Reference is made to paragraph 59 above. In addition, Act No. 24 of 13 June 1964 relating to Primary Schools, section 16 last paragraph reads:

> "Corporal punishment or other degrading treatment must not be used."

Section 1 of the Regulations on Limited Access to Use of Coercive Measures and Prohibition of Corporal Punishment within Psychiatric Health Care, Health Care for the Mentally Retarded and Health Care for Epileptics, adopted by Royal Decree of 3 June 1977, reads:

> "The patient/client shall be treated with respect for personal dignity and integrity.
>
> This also applies when one, as part of the care for the patient/client, has to stop or hold him in order to prevent personal injury or substantial material damage.
>
> Corporal punishment is not permitted."

69. These regulations specify the coercive means which may be used when absolutely necessary to prevent a patient from hurting himself or others. These are isolation, which shall not last for more than two hours if the patient is unattended, and mechanical means. Other means shall not be used (section 3). Coercive means may only be used when prescribed by a medical doctor (section 6), and the institution shall keep a record of the use of such means (section 8). The Board of Inspection (cf. Norway's second periodic report, para. 49) ensures through regular visits that the regulations are respected, and makes written reports after each visit.

70. The responsibility for the care of mentally retarded persons has recently been transferred from the country to the municipality. As a result of this, the central institutions will be abolished. The above-mentioned regulations do not apply in municipal institutions. A committee appointed by the Government is presently looking into the new regulations and control mechanisms which are made necessary by this reform.

71. With regard to medical experimentation on human beings, the following regulations may be mentioned.

72. Clinical testing of pharmaceutical products may only take place with the permission of the Norwegian Medicines Control Authority (Statens legemiddelkontroll) pursuant to the Regulations of 21 August 1981 relating to clinical testing of pharmaceutical products. Such testing requires the informed consent of the patient/test person. If consent cannot be obtained, the Control Authority shall be informed of the reason for this. The ethical evaluation shall be in accordance with the guidelines in the Helsinki Declaration which was adopted by the 18th World Medical Assembly in 1964 as revised by the 29th World Medical Assembly in Tokyo in 1975.

73. Research in connection with medical treatment in psychiatric institutions is governed by regulations adopted on 3 November 1978. Such research may not take place unless the consent of the patient is freely given. The research shall comply with the Helsinki Declaration of 1974 and the Hawaii Declaration of 1977.

74. All biomedical research projects involving human beings must be submitted for consideration to regional medical ethics committees before such research is carried out. Such committees were established in 1985, one in each health region, as a follow-up to the Helsinki Declaration, and their guidelines comply with the rules of the declaration. According to their terms of reference, the regional committees have advisory powers only. They are administratively linked to the Faculties of Medicine at the universities, but are appointed by the Ministry of Education, Research and Church Affairs. As from 1990, medical experiments using biotechnological methods are also reported to the Ministry of Health and Social Affairs.

75. The Government has recently established a National Committee for Medical Research Ethics as an advisory and coordinating body for the five regional committees. This committee shall also submit reports on matters of principle relating to medical research ethics, and shall seek to establish a common platform of principles. An important part of its terms of reference concerns information, both to the research community and to the public.

76. In November 1990, a committee appointed by the Government submitted a report which deals with guidelines for research and development in the fields of biotechnology and genetics and guidelines for research involving human beings (NOU 1991:6). During 1992, the Government will submit a report to the Storting on these issues.

77. Section 15 of the Immigration Act contains extensive safeguards against expulsion of a foreign national to a country where he risks political persecution and where he would be in danger of losing his life or of being subjected to inhuman treatment.

Article 8

Measures to prevent modern forms of slavery

78. Norway has ratified the Convention for the Suppression of the Traffic in Persons and the Exploitation of the Prostitution of Others. Exploitation of the prostitution of others is prohibited in Norway (Penal Code, section 206). Prostitution itself and buying the services of a prostitute are not prohibited.

79. The information supplied in Norway's initial report under article 8 concerning compulsory labour still applies.

Community service

80. By Act No. 4 of 15 March 1991, the Penal Code was amended in order to introduce community service (samfunnstjeneste) as a main penalty. It should be noted, however, that community service was already in use before this amendment to the Penal Code, as such service may be imposed as a condition for a suspended sentence. A translation of the relevant provisions of the Penal Code, sections 15, 28 a, 28 b, 28 c, is enclosed as appendix 6.

81. According to section 28 a, paragraph 1 of the Penal Code, community service of up to 360 hours may be imposed when a person has committed offences which would otherwise lead to imprisonment for up to one year. The consent of the person in question is one of the requirements for sentencing to community service.

82. Such a penalty, which is considered to be more humane than imprisonment, will hence not comprise a form of "compulsory labour" within the meaning of article 8. (It could perhaps be argued that the consent in this case is not free consent, as a refusal would result in imprisonment. Still, this form of penalty is hardly a violation of article 8. Account should be taken of the exceptions in article 8, paragraph 3 b and c (i). Although none of these exceptions applies directly, they seem to accept more severe forms of "compulsory labour" than community service could be considered to be.)

Article 9

Committal to mental hospitals

83. Reference is made to Norway's second periodic report, paragraph 47. In March 1988, a report was presented by a committee appointed by the Government to consider mental health care without consent (NOU 1988:8). The report contains draft legislation relating to mental health care without consent. Its proposals include restrictions on the situations in which committal to mental hospitals may take place without the consent of the person in question. According to the proposals, such committal may only take place when it is highly probable that the treatment will lead to considerable improvement of the patient's condition or his/her ability to function normally. Committal shall thus not take place in the interests of relatives or other people who have contact with the patient. The proposals are currently being considered by the Ministry of Health and Social Affairs.

Imprisonment of foreign nationals

84. A foreign national may be subject to arrest or remand in custody pursuant to the Immigration Act in the following circumstances:

(a) If there is reason to suspect that a foreign national has given a false identity, the police may direct the foreign national to report or to stay in a particular area for up to two weeks. If such an obligation is not

complied with or is deemed to be clearly insufficient, the foreign national may be arrested and imprisoned for a period of two weeks (section 37, subsection 4);

(b) If necessary in order to implement a decision requiring the foreign national to leave the country, the foreign national may be arrested and imprisoned for a period of two weeks (section 41, subsection 4).

85. Imprisonment may be extended by a maximum of two weeks subject to certain conditions, but not more than twice (section 37, subsection 4 and section 41, subsection 5). Such prolongation of detention has so far not been used very often. A total of 689 foreign nationals were imprisoned or detained pursuant to the Immigration Act from 1 November 1990 to 1 November 1991.

86. The provisions regarding imprisonment of the Criminal Procedure Act (section 175 et seq.) apply correspondingly. This implies, inter alia, that the decision regarding arrest shall be made in writing (as a general rule) by the prosecuting authority, and tried by the court as soon as possible.

87. According to section 41, subsection 6, of the Immigration Act, arrest and imprisonment shall not be resorted to if, in consideration of the nature of the case and the general circumstances, this would constitute unreasonable interference, or the court finds that it may instead impose other precautions such as obligation to report, confiscation of passport or assignment to a particular place of residence.

88. If the immigration authorities have decided that the implementation of a negative decision under the Immigration Act (for instance regarding application for asylum) shall be suspended until the appeal has been decided, the foreign national will immediately be released from custody.

89. In cases regarding custody, the court shall appoint a counsel to represent the foreign national and the expenses shall be covered by the State (see the Immigration Act, section 42, subsections 1 and 2, and para. 19 above).

90. As regards the use of arrest and detention according to the provisions of the Immigration Act, it is too early to draw any firm conclusions as the Immigration Act entered into force as recently as 1 January 1991. However, the following observations have been made.

91. The possible evasion of a negative decision regarding an application for asylum (cf. the Immigration Act, section 41, subsection 4) constitutes the most common ground for the request of detention by the police. Arrest and detention pursuant to section 41 may also be requested by the police with respect to foreign nationals residing unlawfully in Norway, i.e. not having residence and work permits or having violated visa requirements.

92. Section 37, subsection 4, is also relevant, as there has been a continual influx of asylum-seekers whose identity is not established. Detention is, however, less frequently used in this connection. The police ask for remand in custody in only a minority of the cases concerning arrival of persons without proof of identity.

93. It appears that the courts are more reluctant to accept detention pursuant to existing legislation than was the case under legislation previously in force. In several cases the courts have denied detention pursuant to the Immigration Act, section 41, subsection 4, making reference to the travaux préparatoires and the less severe measures provided for in the Immigration Act, sections 17 and 41. These measures shall positively have proven insufficient before a court order for remand in custody is given.

Arrest and detention in general

94. Regarding the requirement in article 9, paragraph 3, that a person who is arrested or detained on a criminal charge shall be brought promptly before a judge, it should be noted that the Criminal Procedure Act, section 183, which is described in Norway's second periodic report, paragraph 44, was amended by Act No. 64, of 16 June 1989. According to the amendment, section 149 of Act No. 5 of 13 August 1915 relating to the Courts of Justice, applies in relation to section 183 of the Criminal Procedure Act. Section 183 requires that the question of continued detention shall if possible be brought before the court the day after the arrest. Section 149 of the Act relating to the Courts of Justice provides that when a time-limit expires on a Saturday, Sunday or holiday, it shall be extended to the following working day. Thus, a person who is arrested on a Friday will normally not be brought before a court until Monday. The reason for this amendment was that holding court procedures on Saturdays was found to be disproportionately expensive. However, in the large cities courts have continued to work on Saturdays after the amendment was passed.

95. A decision made by the Appeals Selection Committee of the Supreme Court on 11 June 1991 should be mentioned in this context. A man had been arrested on Thursday, 16 May. He was not brought before a court until Wednesday, 22 May. Both Friday, 17 May and Monday, 20 May were holidays in Norway, and the court was too busy to deal with the case on Tuesday. The Appeals Selection Committee of the Supreme Court upheld the court's decision to keep the man in detention, but made the following statement regarding the European Convention on Human Rights, article 5, paragraph 3 (the provision corresponds to article 9, paragraph 3, of the Covenant):

> "... the provisions of section 183 of the Criminal Procedure Act concerning time-limit must be interpreted so as not to be incompatible with article 5, paragraph 3, of the Convention on Human Rights. The Committee finds it difficult to accept that such a long period of time as has elapsed in the present case is compatible with the said provisions of the Criminal Procedure Act and the Convention on Human Rights. In cases involving as many holidays as the present one, the authorities should see to it that the arrested person is brought before a court at an earlier stage than in the present case."

96. Against this background, the Ministry of Justice has prepared a circular (circular No. 160/91) to the prosecuting authority and the courts regarding the requirement in the human rights conventions in this respect.

97. The Public Prosecutor has instructed the police and other members of the prosecuting authority to ensure, by inspections and by the handling of individual cases, that cases involving custody shall be given priority and investigated as quickly as justifiable.

98. The statistics below show the number of persons remanded in custody and average duration from 1980-1989.

Duration of custodies from 1980-1989

Year	Daily average number in custody	Number of custodies per year	Number of days in custody on average
1980	388	4 481	31.60
1981	415	4 728	32.03
1982	496	4 796	37.78
1983	564	4 032	51.04
1984	539	3 417	57.61
1985	493	3 484	51.67
1986	432	3 464	45.52
1987	433	3 317	47.65
1988	462	3 077	54.80
1989	491	2 972	60.27

99. It may be noted that the number of persons remanded in custody has decreased considerably in this period, while the average duration in the same period has nearly doubled.

100. Whether Norwegian law fulfills the requirements in the Covenant (art. 9, para. 4) corresponding to article 5, paragraph 4, of the European Convention on Human Rights was the issue of the first case against Norway that was dealt with by the European Court of Human Rights (see E vs. Norway, Judgement of 29 August 1990).

101. The applicant, who was detained for security reasons, complained that while in detention, he had not had access to take proceedings pursuant to the requirements of the European Convention on Human Rights, article 5, paragraph 4. In the judgement delivered on 29 August 1990, the Court unanimously held that there had been no violation of the European Convention, article 5, paragraph 4, as regards the scope of the Norwegian courts' power to review the lawfulness of the applicant's detention and their powers to order his release. The Court held, however, that there had been a violation of

article 5, paragraph 4, on account of the failure, in the review proceedings instituted by the applicant, to take a decision "speedily". Approximately eight weeks had passed from the institution of proceedings to the court decision. This delay was not, however, attributable to any legal provision, and the judgement thus did not require any legislative amendments.

102. The Ministry of Justice has distributed the judgement to all the courts in the country, with a description of the implications of the judgement. The circular stresses that special expeditious measures should be taken by the courts when proceedings are instituted against the State, according to chapter 30 of the Code of Civil Procedure concerning cases of preventive detention. Upon the court's receipt of such a lawsuit, the necessary preparatory measures, such as obtaining the defendant's observations and the appointment of medical specialists, should be taken as soon as possible.

103. In paragraph 23 above, it was mentioned that the question of the right of persons deprived of their liberty to take proceedings before a court has been dealt with in two Supreme Court judgements in recent years. In the first (Norwegian Law Gazette 1989, p. 1372 et seq.), an opinion expressed by a High Court judge prompted one of the Supreme Court judges to state that it would be possible to bring before the courts and have the courts try an administrative decision not to abolish a security measure amounting to deprivation of liberty. In the second decision, (Norwegian Law Gazette 1990, p. 599) the Supreme Court held that according to Norwegian law, it may not be decided by the court when authorizing the prosecuting authorities to use security measures, including deprivation of liberty, that the individual in question shall undergo annual observation in order to ensure that the conditions to deprive him or her of liberty are still fulfilled. It follows from the applicable rules that the question of security measures shall be considered each year.

Article 10

104. The following may be added to the information contained in Norway's previous reports regarding legislative and other measures designed to protect the right of all persons deprived of their liberty to be treated with humanity, and with respect for the inherent dignity of the human person.

Mental hospitals

105. Regulations on coercive measures without a therapeutic purpose are described above under article 7. Regulations relating to restrictions on coercive treatment in mental hospitals are found in the Royal Decree of 21 September 1984. Such treatment may only be carried out if required to improve or prevent worsening of the condition of the patient. Only approved remedies may be used, and only on the basis of long-term observation of the patient. Coercive treatment may only take place when recommended by the chief physician. Such decisions may only be made for three months at a time. Decisions on coercive treatment may be appealed to the chief country medical officer.

106. Wherever a person is under mental care in accordance with the Mental Health Care Act, there shall be a Board of Inspection (cf. the Mental Health Care Act, section 8 and Norway's second periodic report, para. 49). The Board of Inspection shall review decisions on compulsory commitment to a mental institution and carry out the supervision deemed necessary for the welfare of the patient.

Prisons

107. The rules governing the treatment of prisoners are contained in the Prison Act and appurtenant Regulations (cf. para. 63 et seq. above). Prisoners shall have access to the Prison Regulations. The internal regulations of each prison, a copy of which shall be present in each cell, therefore contain information on how to obtain access to the Prison Regulations. The Ministry of Justice is currently translating the Prison Regulations into English. For some time, a compilation of the most important rules has been available in English at all prisons.

108. Copies of the European Prison Rules are available at all prisons. At the larger institutions, these rules are available in various European languages. The prison administration has a duty to make these rules known to the prisoners.

109. The Prison Board, which is under the authority of the Ministry of Justice, controls and supervises conditions in Norwegian prisons. Prisoners may make complaints through administrative channels to the Prison Board (cf. the Prison Act, section 1 a, subsection 7). In addition, complaints may be made to the Storting's Ombudsman for Public Administration. The courts may, when requested, try the legality of decisions regarding prison conditions. In addition, prison committees may visit prisons unannounced to observe prison conditions.

110. The figures below show the extent to which the most severe coercive and disciplinary measures are used in Norwegian prisons:

Year	Security cell (number of times)	Security bed (number of times)	Solitary confinement (number of times)
1988	489	19	1 211
1989	408	29	987
1990	297	22	837

111. Since the submission of Norway's second periodic report, there have been no alterations in the rules and regulations regarding the segregation of accused persons and convicted persons, or the way this is practised.

112. As regards measures to promote the reformation and social rehabilitation of prisoners, it should be mentioned that the Prison Act, section 12 was amended by the Act of 22 June 1990. According to section 12, persons who are

sentenced to imprisonment may be transferred to a health institution if this is reasonable in the light of his health, mental state, ability to work, ability to adapt and in other special situations. After the amendment, the prison may instead be tranferred to a lodging house (hybelhus) in care of the authorities (Kriminalomsorg i Frihet). This alternative is mainly intended for inmates who need social training and work training, in order to ease the transition to a life at liberty.

113. There are no separate juvenile penal institutions or separate sections for juveniles in Norwegian prisons. However, in some prisons the conditions are adapted specifically to the situation of juveniles. Norway ratified the Convention on the Rights of the Child on 8 January 1991. Article 37 (c) of the Convention prescribes that every child deprived of liberty shall be separated from adults, unless it is considered in the child's best interest not to do so. No reservation was made with respect to this provision when Norway ratified the convention because Norwegian prison practice is assumed to satisfy this requirement.

114. In this context, reference is also made to the information regarding the handling of cases involving juveniles provided under article 14 of this report.

Article 11

115. Reference is made to Norway's second periodic report, paragraph 56. The system of imprisonment as a result of the inability to fulfil a contractual obligation (gjeldsfengsel) does not exist in Norway. In this context, it may also be noted that section 8 of Act No. 26 of 13 May 1988 on Debt Collection reads:

> "Debt collection activities shall be carried out in accordance with good debt collecting custom. The same applies to occasional debt collection for others and to collection of own claims.
>
> It is contrary to good debt collecting custom to use methods of debt collection which expose someone to unreasonable pressure, injury or inconvenience."

116. Gross or repeated violation of this provision may be punished with fines or imprisonment for up to three months (section 26).

117. More information on debt collection in Norway is provided below under article 12.

Article 12

118. The Norwegian Constitution does not explicitly guarantee freedom of movement. However, it follows from the principle of legality that freedom of movement may not be restricted unless provided by law.

119. Some restrictions on freedom of movement have been dealt with above in connection with provisions regarding deprivation of liberty. Further restrictions provided for by law are described below.

The right to freedom of movement

120. Reference is made to Norway's second periodic report, paragraphs 57 and 58. As already mentioned, the Aliens Act of 27 July 1956 has been replaced by the Immigration Act of 24 June 1988, with effect from 1 January 1991. According to the regulations and practice under the Aliens Act of 1956, a foreign national's first work permit only applied in the police district in which it was granted. Even though a foreign national was permitted to travel to other parts of the realm, he or she could only reside within the district in which the work permit was valid. According to section 7, subsection 2, of the Immigration Act, a work permit confers the right to reside in the whole of the realm, unless restrictions are stipulated in accordance with rules contained in or issued pursuant to the Immigration Act.

121. According to section 152 of the regulations laid down pursuant to the Immigration Act, foreign nationals who have obtained a permit to work on fixed installations (for instance drilling platforms) in the North Sea do not have the right to a residence permit in Norway. Otherwise, a foreign national's right to choose his or her place of residence freely may only be restricted when national security or compelling social considerations make this necessary (cf. the Immigration Act, section 43, subsection 1). However, such restrictions are seldom applied in practice.

Freedom to leave the country

122. The prohibition of departure and the withdrawal of one's passport are remedies available both in criminal procedure and in connection with the enforcement of civil claims (tvangsfullbyrdelse). The conditions and procedures required for the withdrawal of passports are described in the following.

123. According to section 181 of the Criminal Procedure Act, a person's passport may be withdrawn as one of the alternatives to arrest and detention. The conditions for arrest and detention set out in sections 171 to 173 of the Criminal Procedure Act apply correspondingly. The prosecuting authority orders withdrawal of a passport according to this provision, but the accused may bring the question of legality before the court.

124. According to section 188 of the Criminal Procedure Act, a court may also of its own motion impose withdrawal of a passport as a less restrictive measure, when a matter of remand in custody is brought before the court.

125. Sections 246 and 256 of Act No. 7 of 13 August 1915 relating to the Enforcement of Civil Claims contain provisions regarding the arrest of a person and other restrictions on a person's right to movement, including the withdrawal of his passport. The Government recently submitted a bill to the Storting proposing a new Act relating to enforcement of civil claims (cf. Proposition No. 65 (1990-1991) to the Odelsting, which will replace Act No. 7 of 13 August 1915). The following comments relate to this proposal, which in substance conforms to the current legislation in this respect.

126. According to section 14-17 of the proposal, a debtor may be prohibited from leaving the country subject to certain conditions (see below). Such prohibition shall generally be effected by withdrawal of the debtor's passport (section 14-19). Only under particularly aggravating circumstances may the debtor be arrested and held in custody. Departure may only be prohibited if the debtor is in the process of leaving the country and it is doubtful, under the circumstances, whether he will return (section 14-17). Furthermore, such prohibition must be necessary to ensure the enforced collection of the claim, since arrest on the debtor's property will be insufficient. Finally, it is a general condition that the prohibition of departure is not a disproportionate encroachment, when account is taken of the concrete circumstances and the nature of the case (section 14-17). Prohibition may not be decided if the debtor is not residing in Norway and the claim cannot be brought before a Norwegian court (section 14-17, subsection 2). A request for prohibition of departure shall be brought before the court in the district where the debtor resides or is staying (section 14-1). The prohibition of departure no longer applies after three months, or earlier if the court so decides.

127. It is proposed that these provisions should also apply when the claim is for alimony. Today, Act No. 5 of 9 December 1955 relating to Collection of Alimony states that if a debtor owing alimony is in the process of leaving the country under such circumstances that it is uncertain whether he or she will return, and the debtor fails to give sufficient security, the Chief of Police (politimesteren) may, at the request of the creditor, prohibit departure and withdraw the debtor's passport. Such a measure shall immediately be reported to the County Governor (fylkesmannen), who decides whether the decision shall be maintained. The decision may be appealed to the Ministry of Justice.

128. Finally, it may be noted that the Ministry of Justice in September 1990 appointed a committee which was asked to draft an Act on passports. No such Act exists at present. The Committee will present its report during the spring of 1992.

Article 13

129. Reference is made to Norway's second periodic report, paragraphs 59 to 63. As already mentioned, the Aliens Act of 1956 has been replaced by the 1988 Immigration Act with effect from 1 January 1991. The provisions of chapter 5 of the Immigration Act relate to rejection on entry and the expulsion of foreign nationals, and chapter 6 governs the procedure and the question of the delaying effect of appeal proceedings.

130. Administrative proceedings for rejection or expulsion pursuant to sections 27, subsection 1 (g), 28 and 29 of the Immigration Act are prepared by the police. The decision is made by the Directorate of Immigration in the first instance, and may be appealed to the Ministry of Justice. A decision to reject pursuant to section 27, subsection 1 (a)-(f) of the Act is made by the police (section 27, subsection 2). The decision may be appealed to the Directorate of Immigration.

131. If an appeal is made against a decision regarding expulsion, the question arises whether the foreign national may remain in Norway while the appeal is being considered. Pursuant to the Immigration Act, section 39, subsection 1,

a decision to expel a foreign national who has a work permit, residence permit or settlement permit in Norway shall not be implemented until the decision has become final. Rejection of a foreign national pursuant to the Immigration Act, section 27, i.e. rejection within seven days after entry into the realm, may be implemented immediately (section 39, subsection 1). Rejection according to the Immigration Act, section 28, because the foreign national lacks such permit as required in accordance with chapter 2 shall not be implemented until the foreign national has been given the opportunity to put forward an appeal, and not less than 48 hours after notification of the decision has reached the foreign national (section 39, subsection 2). Exceptions may only be made if necessary for reasons relating to Norway's foreign policy, national security or compelling social considerations (section 43). Otherwise, the Public Administration Act, section 42, applies, which means that the subordinate instance or the appeal instance may decide that the administrative decision shall not be implemented until the time-limit for appeal has expired or the appeal has been decided. The question of delaying effect may also be brought before a court.

132. It should also be noted that certain categories of foreign nationals in Norway enjoy extensive protection against expulsion from the country, (cf. the Immigration Act, section 30). A foreign national who was born in the realm, and has subsequently without interruption has a fixed abode in the realm, may not be expelled. Further, a foreign national who satisfies the requirements for a settlement permit may only be expelled if required for reasons of national security, or if the foreign national has been sentenced for an offence or offences which according to Norwegian law are punishable by imprisonment for three years or more, and certain other conditions are fufilled.

133. Because of Norway's dualistic approach to the relationship between domestic law and international law, section 4 of the Immigration Act ensures that in case of conflict between international rules and the Act, the international rules shall prevail when these are intended to strengthen the position of the foreign national.

Article 14

134. The legislation regarding civil and criminal procedure which has been described in Norway's previous reports has not been amended in any significant way during the time span covered by this report. The following may be added to the information supplied in the previous reports.

135. As mentioned in connection with article 2, in 1988-1990 the Supreme Court dealt with four cases concerning guarantees in criminal cases as recognized in article 14 in which reference was made to a human rights instrument.

136. The first case (Norwegian Law Gazette 1988, p. 314 et seq.) concerned appeals by four British nationals who had been convicted of offences relating to drug trafficking, and sentenced to long terms of imprisonment. It was alleged, inter alia, that they had a right to be assisted by an English lawyer, that press coverage of the case had prejudiced the case against them, and that the documents of the case should have been translated into English.

Reference was made to article 6 of the European Convention on Human Rights. The Supreme Court did not find that the High Court had made any procedural errors. No request had been made for an English lawyer in addition to the Norwegian lawyer, nor had a request been made to ensure that the members of the jury were not unduly influenced by the press. In any case, the Supreme Court did not find that the information on the case supplied by the press was likely to have influenced the result of the case. The Supreme Court also held that it was not a requirement of the European Convention on Human Rights that all the documents should be translated.

137. The other three cases (Norwegian Law Gazette 1990, p. 312 et seq., 319 et seq. and 599 et seq.) all related to the reading out in court of previous statements made by witnesses (cf. the European Convention on Human Rights, art. 6, para. 3 (d), the wording of which corresponds to the wording of art. 14 (e) of the Covenant). The Supreme Court examined all these cases in the light of the jurisprudence of the European Court of Human Rights (in particular the "Kostowsky case" and the "Unterpertinger case"). According to this, the Supreme Court stated, it is not necessarily contrary to the European Convention on Human Rights to read out a statement made by a witness who does not appear in court. A total evaluation must take place, in which it is asked whether the defendant has been given a reasonable opportunity to defend himself in the light of the requirement that the trial shall be fair. In this evaluation, the other existing evidence must be taken into account.

138. The authorities have set clear objectives regarding the time by which a trial in a criminal case should commence after the case has been brought before the court. The average time should not exceed one to two months in the court of first instance, but a waiting period of up to three months might be acceptable. In appeal cases for the High Court the objective is that judgement be rendered within six months. Statistics from 1989 and 1990 show that these aims are achieved by most courts. Some courts, however, particularly in the largest cities, do not quite satisfy these requirements. With effect from 1990, various measures have been implemented to improve the situation, including allotment of more resources, development of leadership and education of employees at the courts, new technology and improved routines. Particular attention has been paid to the courts which have the most difficult situation in this respect.

139. The principle of presumption of innocence (art. 14, para. 2) is an integral part of customary law in Norway. In this connection, it should also be recalled that according to Norwegian law, the burden of proof lies entirely with the prosecution.

140. Regarding article 14, paragraph 3 (f) of the Covenant, it may be noted that Act No. 56 of 12 June 1987 concerning the Sami Assembly and other Sami legal matters (the Sami Act), was amended by Act No. 78 of 21 December 1990. A translation of the amendments is contained in appendix 7 to the present report. Of particular relevance in this context is section 3-4. At the same time, a new section 36 (a) was included in Act No. 5 of 13 August 1915 relating to the Courts of Justice. The purpose of these provisions is to extend the right to use the Sami language in the judicial system, including

the right to use an interpreter. It is assumed that these provisions will enter into force by the turn of the year 1991-1992. (More information on the Sami Act and the 1990 amendment of the Act is supplied under art. 27 below.)

141. Regarding article 14, paragraph 4 of the Covenant, it should be noted that the minimum age of criminal liability was raised from 14 to 15 years in 1987. The relevant Act entered into force on 1 January 1990. The Criminal Procedure Act, section 174, establishes the principle of proportionality as a condition of detention. It is explicitly stated that persons under 18 years of age shall not be arrested or remanded in custody (cf. section 184) unless it is especially necessary.

142. In general, the ordinary provisions of the Criminal Procedure Act apply with respect to juvenile offenders, i.e. offenders between 15 and 18 years of age. There is no juvenile court system in Norway. However, the prosecuting authority may instead of prosecution transfer the case to the child welfare authorities. (Cf. the Child Welfare Act, section 57, para. 1, which reads:

> "If a person who has completed his fifteenth year, but not his eighteenth year, has committed a criminal act, the prosecuting authority may transfer the case to the Health and Social Committee instead of bringing a charge or withdraw the charge according to the Criminal Procedure Act section 69. The Health and Social Committee decides if, and as the case might be, what measures are to be taken. The prosecution authority shall be notified immediately of the Health and Social Committee's decision.")

If the case is brought before a court, the judge may in the same way transfer the case to the child welfare authorities.

143. The prosecuting authority may also refer the case for arbitration in a "conflict council", pursuant to Act No. 3 of 15 March 1991. The Act has not yet entered into force, but the system has been in use since 1983 based on instructions from the Public Prosecutor. Conflict Councils are appointed by the municipal authorities and their purpose is to arbitrate between the offender and the victim in order to obtain a settlement (section 1). Both parties must have agreed to participate in the arbitration (section 5). If an agreement between the parties is reached, and approved by the arbitrator according to section 8 (cf. section 14), prosecution may only be resumed if there has been a substantial breach of the agreement (section 16).

144. With respect to article 14, paragraph 5 of the Covenant, reference is made to Norway's initial report, page 6, the supplement to Norway's initial report, page 11 and Norway's second periodic report, paragraph 78, regarding limited right to appeal a judgement in respect of the assessment of evidence in connection with the question of guilt. A committee was appointed by Royal Decree of 23 March 1990 to consider possible amendments of the Criminal Procedure Act regarding this question (To-instansutvalget). The Committee will, among other things, consider how to implement an extended right to appeal a judgement with regard to the question of guilt. It is stated in the terms of reference that international law, including article 14 of the Covenant, should be taken into consideration by the Committee. The Committee has not yet completed its work.

145. As concerns the right to compensation in connection with prosecution (cf. art. 14, para. 6) reference is made to paragraph 103 above.

Article 15

146. Article 97 of the Norwegian Constitution prohibits the retroactive application of criminal laws. The principle that an offender should benefit from laws passed after the commission of his crime if this implies lower penalties than the law applicable at the time of the commission of the crime is contained in the Penal Code, section 3. Reference is made to Norway's previous reports for further details.

Article 16

147. The information supplied in Norway's second periodic report, paragraph 82, still applies.

Article 17

148. The principle of legality requires that no interference with privacy, home or correspondence by public authorities may take place unless provided by law. Such interference by natural or legal persons is to a large extent prohibited by provisions of the Penal Code or other legislation (cf. Norway's initial report, p. 7 and Norway's second periodic report, paras. 85-86). The following may be added regarding legislation authorizing or penalizing interference with privacy.

Telephone monitoring

149. Act No. 76 of 21 December 1990 extended the applicability of Provisional Act No. 99 of 17 December 1976 relating to Access to Telephone Monitoring in the Investigations of Violations of Legislation on Narcotics to 1 June 1992. In the bill submitted to the Storting, the Government proposed that the Act should be made permanent. The Storting, however, felt a need for a more thorough discussion of whether this kind of interference with privacy ought to continue before deciding on the question of permanency. In the opinion of the Storting, certain related questions also needed to be considered. Therefore, in August 1991, the Ministry of Justice submitted a memorandum to a number of relevant institutions and organizations, asking for their opinions on the following questions: Should telephone monitoring in cases relating to narcotics still be authorized? Should an Act authorizing this be provisional or permanent? Should the provisions be contained in the Criminal Procedure Act? Should a lawyer or other person be appointed to represent the interests of the suspected person? To what extent should the police be allowed to use excess information? Should the suspected person have a right to know that his or her telephone has been monitored? Certain other issues were raised as well. The responses to this memorandum are currently being considered by the Ministry of Justice, and a proposal for a new Act relating to telephone monitoring will be presented to the Storting in the spring of 1992.

150. The Supervisory Board set up to supervise the handling of cases relating to the interception of telephone conversations according to the above-mentioned Act (cf. Norway's second periodic report, paras. 88-89) has

received no complaints from individuals claiming to be subject to unlawful interception. In its annual report to the Ministry of Justice for 1989, the Board reported that it had not discovered serious violations of the rules. The Board also monitors the total amount of telephone tapping according to this Act. In 1987, 369 telephones were tapped. In 1988, the number increased to 453, and in 1989, 468 telephones were monitored. In particular, the number of public phones which are tapped has increased. According to the Board, this development should be followed closely.

151. As mentioned in Norway's initial report, telephone tapping may also take place when the interests of national security require (cf. Act no. 5 of 24 June 1915 and the Royal Decree of 19 August 1960 enacted pursuant to the Act). According to the Decree, the court may authorize telephone tapping by the police. Such a decision may be taken when there is reasonable suspicion that the person concerned will commit one of the offences listed in section 1, subsection 2, of the Act, and only when interests of national security require such surveillance. The decision must indicate the basis for the surveillance, its object, its purpose and its duration.

152. A person who claims to be the victim of unlawful telephone tapping by the Police Security Service may complain to the Control Committee for Security and Intelligence Service, which was established by the Royal Decree of 6 October 1972. The instructions of the Control Committee are found in the Royal Decree of 2 January 1982. After having examined a case instituted by a complainant, the Committee shall inform him as to the outcome of the proceedings in the form of a conclusion. The conclusion shall not state reasons, but indicate whether the complaint does or does not give reason to criticize the Police Security Service. When there is reason for criticism, a report concerning the matter shall at the same time be submitted to the Ministry of Justice.

153. In this context, it may be mentioned that the question of whether the interference with privacy which is permitted according to the rules described above is in accordance with the requirements set out in article 8, paragraph 2, of the European Convention on Human Rights was brought before the European Commission of Human Rights in 1987. The applicant was a Norwegian national who claimed to have discovered that his telephone was being tapped by the police. He had complained to the Control Committee, which did not find that there was reason to criticize the Police Security Service. The applicant then brought the case before the courts, requiring compensation, but the Supreme Court found that the applicant had had his complaint examined according to the rules in force, and that the courts had no basis upon which they could examine the case further (Norwegian Law Gazette 1987, p. 612 et seq.). In a decision of 8 June 1990 the European Commission of Human Rights found the complaint manifestly ill-founded, and declared it inadmissible. The Commission found that the Norwegian system embodies such adequate and effective guarantees against abuse as the European Court of Human Rights has found to be essential in any system of this kind.

Television surveillance

154. By Act No. 5 of 15 March 1991 a new section 390 (b) was inserted in the Penal Code. The provision reads:

> "Any person who carries out television surveillance in a public place without setting up sign or otherwise clearly drawing attention to the fact that the place is under surveillance shall be liable to fines. For the purpose of this provision television surveillance shall mean continuous or regular surveillance of persons by means of a remote-controlled or automatic television camera, camera or similar device.
>
> Accomplices shall be liable to the same penalty."

The Data Inspectorate

155. The activities of the Data Inspectorate, which was established by the Act of 9 June 1978 relating to Personal Data Registers, etc. (cf. Norway's second periodic report, para. 84) are closely connected with the aim of article 17 of the Convention. During the period covered by this report, the Data Inspectorate has in particular focused on the following issues:

(a) The increasing use of video registers, both in the private and in the public sector;

(b) Use of data compiled for taxation purposes;

(c) Registration connected to the use of automatic traffic surveillance;

(e) Problems related to "electronic traces" (elektroniske spor) in general, and in particular in connection with toll-road systems;

(f) Use of excess information;

(g) Improvement of the quality of data registers;

(h) Security regulations for registers based on electronic data processing.

The Data Inspectorate has also carried out surveillance to expose any misuse of personal data. These activities have in particular been directed towards health institutions, public services and the Norwegian Telecommunications Administration (Televerket).

Article 18

156. The information on legislation and practice with regard to freedom of thought, conscience and religion which has been supplied in Norway's previous reports and during the examination of these still applies.

157. According to the population and housing census of 1980, 87.8 per cent of the population belonged to the Church of Norway, 3.8 per cent belonged to other religious communities, 3.2 per cent did not belong to a religious community, and no information was available for the final 5.2 per cent.

158. The following statistics may be provided regarding religious and philosophical communities outside the Church of Norway which received State support in 1990:

	Congregations	Members
Registered religious communities, total	873	185 735
Roman Catholics	29	26 580
Methodists	54	15 447
Norwegian Baptist Union	66	11 836
Adventists	68	6 631
The Lutheran Free Church of Norway	72	20 360
The Evangelical-Lutheran Church of NOrway	16	3 510
Church of Norway Mission Covenant	78	7 416
Pentecostalists	204	43 471
The English Church of Norway	17	1 865
Jehova's Witnesses	174	14 749
Orthodox Jews	2	1 000
Islam	32	19 189
Other registered religious communities	61	13 681
Unregistered religious communities, total	51	11 910
Free Evang. Congregations	12	2 054
Pentocostalists	22	1 721
Other unregistered communities	17	8 135
Philosophical communities, total	157	49 428
Human and Ethical Union	157	49 428

159. The first paragraph of section 1 of Act No. 3 of 19 March 1965 concerning Exemption from Military Service on Grounds of Personal Conviction, in which the requirement for such exemption is laid down, was amended by Act No. 42 of 22 June 1990. The provision now reads (the new wording of the provision has been underlined):

> "If there is reason to presume that a conscript is unable to perform military service of any kind without coming into conflict with his serious convictions, <u>inter alia that he is thereby compelled to compromise beliefs that are of fundamental importance to him and that are related to the use of weapons of mass destruction as they could be expected to be used in modern-day defence</u>, he shall be exempted from such service by the competent Ministry or by judgement pronounced pursuant to the provisions of this Act."

160. The purpose of the amendment was to establish clearly that exemption could be granted to an individual for whom military service of any kind in a defence system or conflict which may involve the use of nuclear weapons would be contrary to his serious conviction.

161. When proposing this amendment, the majority of the Standing Committee on Justice noted that it had been questioned on various occasions whether the Norwegian treatment of issues relating to conscientious objectors was in accordance with Norway's international obligations, as stated for instance in the Covenant. The majority concluded that given the practice which would result from the amendment, there would be no doubt that Norway fulfilled the international duties in this respect (Recommendation No. 76 (1989-1990) to the Odelsting).

162. The following statistics show the number of persons who applied for the status of conscientious objector, and the number of persons who were actually recognized as such in 1987-1990:

	Number of applicants	Number of applications withdrawn	Number recognized
1987	2 360	240	1 629
1988	2 360	210	1 596
1989	2 259	206	1 742
1990	2 548	150	2 034

Article 19

163. Legislation and practice with regard to the freedom to hold opinions and freedom of expression are thoroughly described in Norway's previous reports. Since the submission of Norway's second periodic report, major changes have however taken place with respect to broadcasting and cable transmission.

164. According to Act. No. 36 of 13 June 1980 on Broadcasting, only the Norwegian Broadcasting Corporation (NRK) has a right to broadcast. Others must obtain prior permission pursuant to section 1, subsection 4, of the Act, or according to Act. No. 71 of 27 November 1987 on Local Broadcasting (section 1, subsection 1). Through an amendment of 21 December 1990 of section 1, subsection 4, of the Act on Broadcasting, the King may no longer grant permission to broadcast only in special cases or during trial periods. Permanent permission may now be granted on a general basis.

165. The definition of the term "broadcasting" (cf. section 1, subsection 2) has been amended to read, "... diffusion of speech, music, images, etc., by radio waves or by cable intended to be received directly by the public."

166. Act No. 71 of 27 November 1987 on Local Broadcasting opened the way for local broadcasting on a permanent basis. Previously, such permission was granted only on an experimental basis. Permission for a specified period is granted by the Local Broadcasting Authority (section 2) and is normally granted for areas covered by a municipality (section 4). According to

regulations issued pursuant to the Act (section 2, subsection 2), local broadcasting permission may be granted to schools, local associations, organizations, etc., which do not have trade as their chief objective. Such permission may also be granted to local broadcasting associations, corporations, enterprises, etc., which have local broadcasting as their objective. Newspapers, media companies, tradespeople, nationwide organizations, private individuals, cable companies, municipalities and municipal bodies may not hold a separate franchise for local broadcasting, or hold more than 49 per cent of the ownership interest in a local broadcasting corporation. The franchise holder and at least two-thirds of the shareholders must be resident in the franchise area. Local radio and television transmissions shall consist mainly of programmes produced by the franchise holder, and shall mainly be of a local character.

167. Act No. 46 of 10 June 1988 on Cable Transmission allows simultaneous and unaltered retransmission of all available transmissions which satisfy the conditions for lawful broadcasting in Norway (section 2 of the Act). Subscribers may determine what programmes are to be distributed via the cable network in addition to broadcasts which must be transmitted according to regulations issued pursuant to section 3 of the Act (section 4). At present, this includes any broadcasts made by the Norwegian Broadcasting Corporation (NRK) and broadcasts made by those who have obtained permission to transmit local television programmes in the municipality covered by the cable network. Pursuant to section 5, the Local Broadcasting Authority may prohibit the distribution of programmes from other countries which (a) Regularly show advertisements which violate Norwegian law; (b) Regularly show programmes containing pornography or violence contrary to Norwegian law; (c) Regularly show programmes which may have a harmful effect on children and young persons at times when children and young persons constitute a large group of viewers.

168. Act No. 77 of 21 December 1990 on Broadcast Advertising allows for advertising on a permanent basis in broadcasting media which broadcast according to permission granted pursuant to the Act on Broadcasting, section 1, subsection 4, or the Act on Local Broadcasting. The amount of advertising shall not exceed 10 per cent of the daily transmission time (section 3). Advertisements should be clearly distinguishable and recognizably separate from the other items of the programme service by optical or acoustic means (section 4). According to the regulations laid down pursuant to the Act, advertising messages should mainly be presented in Norwegian. Spot advertising may not be presented in connection with children's programmes, nor may advertising for products or services which are mainly directed at children occur. Advertisements for tobacco products, alcoholic beverages, medicines, guns and models of such, and for religious or political messages may not occur. Television advertising should in principle be transmitted in blocks.

169. Regulations relating to sponsorship messages in broadcasting were passed by the Royal Decree of 19 April 1991. The regulations cover broadcasting permitted according to the Act on Broadcasting, section 1, subsection 4, and the Act on Local Broadcasting. When a programme is directly or indirectly sponsored, the sponsor should be identified at the beginning and the end of the programme by the sponsor's name, trademark or logo. The duration of such

identification shall be limited. News and current affairs programmes may not be sponsored, nor may political organizations act as sponsors. Programmes may not be sponsored by natural or legal persons whose principal activity is the manufacture or sale of products or the provision of services, the advertising of which is prohibited by Norwegian law, nor may trademarks or logos used in the advertising of prohibited advertisements be used as sponsor identification.

170. Act No. 4 of 25 July 1913 relating to the Public Showing of Cinematographic Pictures (cf. the supplementary report to Norway's initial report, p. 19) has been replaced by Act No. 21 of 15 May 1987 on Film and Video. Whereas the 1913 Act related only to the public showing of films, the 1987 Act regulates all showing and distribution of film and video in trade (i naering). According to the Act, such showing and distribution of film or video requires permission from the municipal board (section 2). Film and video which are to be shown in trade must be approved beforehand by the National Board of Film Censors (Statens filmkontroll) (section 4). Videos which are to be distributed in trade must be registered in the Video Register. A video which in the opinion of the National Board of Film Censors violates the provisions of the Penal Code, section 211 (pornography) or 382 (violence) shall not be registered (section 7).

171. By an amendment of 1989 of section 211 of the Penal Code, importation of pornographic material for the purpose of distribution became unlawful. At present, the Ministry of Justice is preparing a bill in which it will be proposed that possession of child pornography shall be unlawful.

172. Finally, attention may be drawn to two Supreme Court decisions in which freedom of expression has been discussed.

173. In the judgement printed in the Norwegian Law Gazette 1990, page 257 et seq., the issue was whether a statement in an editorial constituted an unlawful attack on the honour of the person in question. The statement read: "... with disgust we have followed the campaign of the Progress Party and NN to strengthen xenophobia among Norwegians". The Supreme Court held that this statement was not unlawful as the freedom of expression within the field of politics was important. Reference was made to the jurisprudence of the European Court of Human Rights.

174. In a 1989 case involving freedom of expression, 16 soldiers were killed by an avalanche in a valley and a newspaper, had incorrectly, suggested that a captain had ordered the soldiers to continue into the valley in spite of warnings of the possibility of an avalanche. The Supreme Court, in the judgement printed in the Norwegian Law Gazette 1989, page 257 et seq., held that this was an unlawful attack on the captain's honour. The newspaper argued that, in the light of the freedom of expression recognized in article 100 of the Constitution, the need for information in relation to this accident and the limited information supplied by the authorities should be taken into account. In the opinion of the Supreme Court, this could not, however, be decisive.

Article 20

175. Reference is made to Norway's initial report, page 8 regarding Norway's reservation to paragraph 1 of this article, and of the relevant legislation to fulfil the requirements of paragraph 2. There have been no relevant legislative amendments or Supreme Court decisions during the time span covered by this report.

Article 21

176. Reference is made to Norway's second periodic report, paragraph 106. New Police Instructions were adopted on 22 June 1990 pursuant to section 29 of the Act of 13 March 1936 relating to the Police. A translation of section 8-5 of the Instructions reads:

> "The police shall not prohibit demonstration processions, other processions, meetings, assemblies, stands etc., in public places unless there is reason to fear that these may give rise to violence or similar disturbances of the peace, order or security, or the object which is sought promoted or the way it is done is contrary to law.
>
> The police shall as far as possible contribute so that lawful demonstrations etc., in public places may be carried out undisturbed and otherwise to as little as possible hinderance of other traffic. The police may set out conditions for the implementation as far as it is considered necessary to prevent such violations as mentioned in paragraph 1, and otherwise to maintain order and security. When deciding whether such arrangements ought to be prohibited or regulated, it shall be taken into account whether the police will be able to secure the implementation, as well as maintain or re-establish order and security, or whether other serious social considerations weigh against the carrying out of the arrangement. The Public Administration Act shall be applied when the police deal with applications or notifications of such arrangements."

177. When political demonstrations are to take place in the capital of Norway, Oslo, the police notify the road traffic authorities, the Ministry of Foreign Affairs, any embassies which will be passed by the procession and, when relevant, the embassy towards which the demonstration is directed. The police no longer have fixed limitations as to the number of people allowed to participate. Instead, the police consider each application in accordance with the guidelines provided in the Police Instructions.

178. The following information regarding permits and refusals to arrange public processions, meetings, etc., in 1990 has been obtained from the three largest cities in Norway:

(a) Oslo: 219 permits and three refusals. Generally, a maximum of three days pass from receipt of the application until a decision is taken;

(b) Bergen: 912 permits, 150 of which may be characterized as political demonstrations. No refusals. Normally a week passes from receipt of the application until an answer is given;

(c) Trondheim: 629 permits, 330 of which may be characterized as political demonstrations. Normally three to four days pass from receipt of the application until an answer is given.

Article 22

179. Information on the right to freedom of association, including the right to join trade unions, is supplied in previous Norwegian reports to the Human Rights Committee. Information on registration of political parties, is contained under article 25 in Norway's second periodic report (para. 132). It may be noted that by an amendment of 22 March 1991 of section 17 of the Act relating to Elections, it is now required that an application to be registered as a political party be accompanied by the signatures of 5,000 persons who are eligible to vote in general elections. Previously, 3,000 signatures sufficed.

Article 23

180. A new Act relating to marriage, Act No. 47 of 4 July 1991 (hereinafter referred to as "the Marriage Act"), has been passed by the Storting, but has not yet entered into force. The Marriage Act will enter into force on 1 January 1993 and will replace Act No. 2 of 31 May 1918 relating to Marriage, and Act No. 1 of 20 May 1927 relating to the property arrangement in marriage.

181. The conditions for marriage are set out in chapter 1 of the Marriage Act. The marriageable age will still be 18 as a general rule. Consent from the authorities (fylkesmannen) and the parents (or guardian) will be required for persons under 18 years of age who intend to marry, as is the case under the present legislation. Such consent is usually not given to persons under 17 years of age. As a general rule, persons who are declared incapable of managing their affairs (umyndiggjorte) will need consent from their guardian in order to marry. However, even if such consent is denied, the authorities may give permission to marry if there is no reasonable basis for denial. Otherwise, everyone who is capable of understanding the substance of marriage and who is capable of a normal motivation for marrying, shall be entitled to marry (section 9). These conditions are less restrictive than the conditions in the present legislation with regard to insane and mentally retarted persons. Restrictions because of kinship are prescribed in section 3 of the Marriage Act. Marriage between persons related by marriage will no longer be prohibited.

182. The Marriage Act provides for the possibility of both civil and religious marriages, (cf. chap. 3).

183. There are some alterations regarding the conditions for dissolution of marriage, (cf. chap. 4 of the Marriage Act). Pursuant to section 20, each spouse shall be unconditionally entitled to separation. Further, each spouse may claim divorce after one year of formal separation or two years of actual separation (sections 20 and 21). Divorce without one year of prior separation may only be granted in case of certain serious encroachments from the other spouse (section 23). Marriage which has been entered into at variance with the restrictions regarding kinship or bigamy may be dissolved in accordance with section 24.

184. Conciliation between the spouses as a condition for separation or divorce is abolished in the Marriage Act, except when there are minor children (i.e., under 16 years of age) of the marriage. In that case extended conciliation will be required in order to obtain separation or divorce (sect. 26). The purpose of the conciliation shall be to reach an agreement on subjects such as custody of the child(ren), where the child(ren) shall live and visitation rights. It is expressly stated in the Act that the interest of the child(ren) shall be emphasized under such arbitration.

185. The Marriage Act also represents various other changes in the marriage legislation, e.g., property arrangements and the financial effect of dissolution. For the purpose of this report, it is sufficient to ascertain that there is no statutory discrimination between men and women regarding the rights and responsibilities of the spouses, neither during marriage nor in connection with dissolution.

186. Although it is not stated directly, the new Marriage Act shall also be interpreted so that only persons of opposite sexes may marry (cf. Proposition No. 28 (1990-1991) to the Odelsting, p. 13). The Storting has recently discussed a proposal to permit homosexual persons to marry or enter into a "registered partnership" with the same legal effect as marriage, but the proposal has so far not obtained a majority of the votes.

187. In Norwegian law, permanent cohabitation of partners who are not formally married is not regulated or protected to the same extent as marriage. However, an Act concerning an aspect of this matter was recently passed by the Storting, Act No. 45 of 4 July 1991 relating to Common Residence and Movables when Cohabitation of Partners is Dissolved. The Act entered into force on 1 October 1991 and comprises all kinds of cohabitants who have either shared a household for at least two years or have children together. The Act governs the right to take over the common residence and movables when the cohabitation is dissolved by death or otherwise.

188. The right of residents of Norway to bring family members who are foreign nationals into the realm is of importance with regard to the obligations set out in article 23. Pursuant to the Immigration Act, section 9, subsection 1, the closest members of the family of a Norwegian or a Nordic national who is resident in the realm, or of a foreign national who has or will be granted lawful residence in the realm pursuant to section 8 or 12 of the Act, have an application the right to a residence permit. However, subsistence has to be ensured and there must be no circumstances that would otherwise disqualify the foreign national from entering, residing or working in the realm pursuant to the Immigration Act. Section 23 of the regulations laid down pursuant to the Immigration Act (Royal Decree of 21 December 1990) explains who is considered to be "closest family". Regarding spouses, it is a condition that they intend to live together. Cohabitants (of opposite sexes) who have lived together for at least two years in a stable relationship will also be regarded as "close family". The same applies to children, minor sisters and brothers, and parents, all subject to certain conditions. Family members other than those defined as "close family" pursuant to section 23 of the regulations may be granted a residence permit subject to the discretion of the authorities pursuant to the Immigration Act, section 8, subsection 2.

189. The substance of the subsistence requirement is described in the regulations, section 25, subsection 2. Exceptions from this requirement are made for the spouses and children of Nordic nationals resident in the realm during the preceding three years, provided the marriage was established prior to their entry into the realm, and for certain family members of foreign nationals who have obtained refugee status in Norway (section 25, subsection 4 of the regulations). Further exceptions from the subsistence requirement may be made at the discretion of the authorities if the applicant is married to a Norwegian national, or if particularly weighty humanitarian considerations are involved (section 25, subsection 3).

Article 24

190. In 1985, 3,780 children lived in foster homes. In 1989, the number was 3,400. On the other hand, there has been an increase in the use of child-care institutions. In 1985, 638 children were placed in child-care institutions, whereas the number in 1989 was 801.

191. The Ministry of Children and Family Affairs has presented a Programme for National Development of Child Welfare, the aim of which is to be able to offer help at the right time, in the best interest of the child.

192. The Ministry of Children and Family Affairs is also preparing a bill for a new Act relating to child welfare. The bill will emphasize children's legal security. It will also elaborate and make more precise society's obligation to protect children in difficult situations.

193. As regards children's right to be registered and have a name, reference is made to Norway's second periodic report, paragraphs 125 and 126. There have been no amendments to the relevant provisions.

194. As regards the main condition for acquiring Norwegian nationality, reference is made to the second periodic report, paragraph 127, in which section 1 of the Act of 8 December 1950 on Nationality is cited. In some cases, this provision can have as a consequence that a child does not acquire Norwegian nationality, even if the child has no other nationality. According to section 6, subsection 2, of the Nationality Act, it is possible to apply for Norwegian nationality even if a person does not fulfil the conditions set forth in section 1. If the applicant is a child, and if the mother or the father is going to stay in Norway, the child most certainly will be granted Norwegian nationality.

Article 25

195. Articles 57, 58 and 59 of the Constitution were amended on 10 June 1988. A translation of these provisions is enclosed as appendix 8. The aim of the amendment was to improve the correspondence between the number of votes received by a political party at national level and the number of members of the Storting representing the same party. Thus, the total number of members of the Storting was increased from 157 to 165 (art. 57); 157 of the members are still elected as representatives of the counties, apportioned according to rules set out in the Constitution (art. 58, para. 2 and art. 59). The remaining eight members shall be seats at large (utjevningsrepresentanter).

196. With reference to paragraphs 133 and 134 of Norway's second periodic report, it may be noted that according to section 3, subsection 3, of the Election Act, Norwegian nationals who are members of the families of employees in the diplomatic or consular service have the right to vote in Norwegian elections, even if they were born and brought up in another country and have never been registered in the Norwegian Population Register as resident in Norway. It might also be noted that according to section 3, subsection 1, of the Election Act, persons who do not have Norwegian nationality have the right to vote in local elections (county and municipal elections) only if they are registered in the Norwegian Population Register as having been residents of Norway the three years preceding election day.

Article 26

197. Information on measures implemented to prevent discrimination against women is supplied under article 3. Measures designed to obtain knowledge of and prevent discrimination against immigrants are described below.

198. A study on discrimination of immigrants with respect to housing is currently being undertaken by a researcher attached to the Institute of Human Rights. A study on patterns of violence against immigrants has been published by the Norwegian Institute of International Affairs.

199. The Ministry of Local Government together with other ministries has supported the publication of a legal study on Norway and the International Convention for the Elimination of All Forms of Racial Discrimination, and a popular version of the same. The Ministry plans to make the Convention known to legal practitioners through seminars.

200. The Ministry of Local Government and the Directorate of Immigration have produced a plan to integrate topics relevant to multicultural living, including problems related to racism, in higher education in Norway. The education of journalists, the police force, health/social workers and teachers has been given high priority. In connection with this, a core syllabus on discrimination is now being developed by the Ministry of Local Government.

201. The National Council for Primary and Lower Secondary Education and the National Council for Upper Secondary Education both arrange seminars for teachers in which special emphasis is placed on intercultural education and means of combating racism among children and young people. Both councils are active in the production and distribution of anti-racist material to schools, children and teachers.

202. The Directorate of Immigration arranges various seminars to train municipal employees who work with immigrants. The Directorate has also made efforts to improve education in primary schools, in order to prevent the formation of racist attitudes. Special efforts have been made to reach young people through activities like theatre and music sessions.

203. A special advisory council to the Government made up of politicans, representatives from immigrant organizations and governmental officials has been set up to ensure that immigrants are able to give their opinion in policy matters which affect them.

204. Other measures include municipal interpreting services, education in the mother tongue in primary and secondary schools, and State support for the running of immigrant associations and their activities. Most of the funds in the last-mentioned category go to two associations: the Anti-racist Centre and the Norwegian Organization for Asylum Seekers.

205. A national conference on "Norway as a multicultural society" was held in February 1991. Discrimination was one of the topics of the conference. There were 700 participants, including several politicans. The conference was a joint project arranged by the Ministry of Local Government, the Directorate of Immigration, the Norwegian Union of Local Authorities and the Liaison Committee between Immigrants and Norwegian Authorities.

Article 27

206. A new article 110 (a) was inserted into the Constitution on 27 May 1988:

> "It is the responsibility of the authorities of the State to create conditions enabling the Sami people to preserve and develop its language, culture and way of life."

207. Act No. 56 of 12 June 1987 relating to the Sami Assembly (Sametinget) and other Sami Legal Matters (the Sami Act), entered into force on 24 February 1989. The first election to the Sami Assembly was held in September 1989, and the Sami Assembly was formally inaugurated by the King of Norway on 9 October 1989. For the purpose of the Sami Assembly, Norway is divided into 13 constituencies, each of which has three representatives. The representatives are chosen by direct ballot by and among Sami people who are registered in the Sami electoral register. Those entitled to register are those who regard themselves as belonging to the Sami people and who use Sami as their language at home, or who have a parent or grandparent who does or has done so.

208. By Act No. 78 of 21 December 1990, the Storting adopted amendments to the Sami Act whereby Sami speakers were given the right to use the language in contacts with local and regional authorities. A translation of the Act is enclosed as appendix 7. The Act entered into force on 1 January 1992. It contains the following language rights.

209. Six municipalities in the counties of Finnmark and Troms, where the Sami language has a strong position, form an administrative area for the Sami language. Special rules apply in this area. In the whole area, it is estimated that around 7,500 people are Sami speaking.

210. In the administrative area, local public bodies are obliged to answer in Sami when members of the public make contact in the Sami language, orally or in writing. Regional public bodies whose geographical area of competence covers the whole or part of the administrative area shall also reply in Sami when they receive written applications from members of the public. The King may extend these duties to public bodies outside the administrative area.

Employees in public bodies to which the rules apply have the right to paid leave in order to learn Sami if the body needs such competence. It is not rquested that all employees master Sami, and the body may use interpreters if suitable.

211. Official announcements which are directed especially towards the population in the administrative area shall appear both in Sami and in Norwegian. Acts and regulations which particularly concern the Sami population shall be translated into Sami. Official forms to be used in contact with public bodies in the administrative area shall be available in Sami and Norwegian.

212. The municipal councils are given the authority to decide that Sami shall be equal to Norwegian in the whole or parts of their administrations. This applies only to internal administration.

213. In addition to these general rights, extended rights have been established in the judicial area (cf. para. 140 above), the health and welfare sectors and vis-à-vis the church (sections 3-4, 3-5 and 3-6).

214. Everyone shall have the right to learn Sami. By Act No. 78 of 21 December 1990, Act No. 24 of 13 June 1969 relating to Primary and Lower Secondary Education was amended to enhance the protection of this right. Children in Sami districts are entitled to an education in or on the Sami language, and the municipal council may make such education compulsory. Outside Sami districts, children with a Sami background may receive instruction in Sami, and if there are at least three Sami-speaking pupils in a school, they may demand such education.

215. A Sami college for higher education was established in 1989. The college has about 80 students, most of whom are studying to be teachers.

216. Today, the Norwegian Broadcasting Corporation transmits through the Sami Radio in Karasjok for more than 300 hours a year. The Sami Radio also produces television programmes concerning Sami issues.

217. On the basis of the existing Committee on Sami Cultural Affairs, the Ministry of Cultural Affairs is planning to establish a Sami Cultural Council. If such a body is established, it will most likely be linked to the Sami Assembly.

218. Further information on the Sami people in Norway is to be found in Norway's sixth periodic report to the Committee on the Elimination of Racial Discrimination (CERD/C/76/Add.2, CERD/C/SR.565-SR.566) in 1982.

219. On 20 June 1990 Norway ratified the ILO Convention concerning indigenous and tribal peoples in independent countries (No. 169).

220. In the autumn of 1990, the Ministry of Local Government appointed an interministerial working group to examine the possibilities of transferring duties and authority to the Sami Assembly. The working group submitted its recommendation in the spring of 1991, and it was circulated to a large number

of institutions and agencies for comments. At the present time, the recommendation is being considered by the Sami Assembly, which will present its comments in March 1992. The matter will probably be submitted to the Government in the course of 1992.

List of appendices:*

Appendix 1: Act No. 64 of 24 June 1988 concerning the Entry of Foreign Nationals into the Kingdom of Norway and Their Presence in the Realm (Immigration Act)

Appendix 2: Act No. 25 of 22 May 1981 relating to Legal Procedure in Criminal Cases (Criminal Procedure Act)

Appendix 3: Act No. 35 of 13 June 1980 relating to Free Legal Aid

Appendix 4: The Constitution, articles 3 and 6

Appendix 5: Act No. 7 of 15 November 1950 concerning Special Measures in Case of War, Threat of War and Similar Circumstances

Appendix 6: The Penal Code, sections 15, 28 (a), 28 (b), and 28 (c)

Appendix 7: Act No. 78 of 21 December 1990 concerning amendments to Act No. 56 of 12 June 1987 on the Sami Assembly and other Sami Legal Matters (the Sami Act), to Act No. 24 of 13 June 1969 relating to Primary and Lower Secondary Education and to Act No. 5 of 13 August 1915 relating to Courts of Justice

Appendix 8: The Constitution, articles 57, 58 and 59

* The appendices, as submitted in English by the Government of Norway, are available for consultation in the files of the United Nations Centre for Human Rights.